

Coordinated Tribal Water Quality Program Tribal/State §303(d) Coordination Project

November 1997

Tribal Participation in

Under the provisions of the Clean Water Act, Ecology is required to submit its §303(d) List to EPA on April 1st of every even numbered year. To meet this submission date, Ecology begins the Listing Process a full 18 months ahead of that date with a reassessment of the §303(d) Policy and Procedures. For example, the policy and procedures reassessment for the Year 2000 §303(d) List will begin in October of 1998.

★ Reassessment of §303(d) Policy and Procedures:

Ecology will contact the **TRIBES** by mail to initiate the policy and procedures reassessment and to request tribal input. The reassessment will include identification of any Ecology and tribal policy and procedures issues, which were not resolved in the course of the previous listing process.

The joint reassessment process by the **TRIBES** and Ecology will be conducted informally by phone and mail, and tribal/Ecology meetings as necessary.

★ Draft Revised §303(d) Policy and Procedures:

If the reassessment process does not result in the need for revisions, Ecology's policy and procedures from the previous §303(d) listing cycle will remain in effect.

If the reassessment process results in the need for revision of the current policy and procedures, Ecology will prepare and then distribute a **Draft Revised §303(d) Policy and Procedures** to the **TRIBES** and for public review and comment before adoption.

During the nine months from this point in the §303(d) listing process through the end of the public review of the Candidate §303(d) List, tribal staff members are urged and encouraged to contact Ecology directly at (360)407-6482 to discuss and resolve any §303(d) listing issues and concerns about data, information, input, and interpretation.

★ Preparation of the Proposed §303(d) List:

Ecology will request any additional information from the **TRIBES** at this point. Following receipt of information from the **TRIBES**, as well as all other governmental and private sources, Ecology will conduct an assessment of all the information it has received and then prepare the **Proposed §303(d) List** for public review and comment.

1 the Clean Water Act §3

All information submitted to Ecology, for consideration during the current listing process, must be submitted before the close of the public comment period. Information submitted thereafter will be considered during the subsequent listing cycle.

★ Preparation of the Candidate §303(d) List:

Ecology will assess all the information received through the public comment period and will prepare:

- * the Candidate §303(d) List; and
- * Summary of Responses to all the information received through the public comment period, which will be sent to the TRIBES for their review and comment.

Section 303(d) of the Clean Water Act – Biennial List Timeline for Tribal/S



1998

Oct-Nov-Dec Jan-Feb-March

1999

April-May-June

July-August-Sept

§303(d) Policy

Draft §303(d) List



Ecology and
TRIBES jointly:
review current
policy to identify
any carry-over
issues or concerns
of Ecology and
TRIBES:
and
Ecology prepares
Revised Draft
§303(d) Policy,
if needed.

Ecology distributes
Revised Draft
§303(d) Policy
for public
comment;
and
then publishes
Final §303(d)
Policy, if needed.

Ecology requests information from TRIBES; collects and assesses information from all sources; and then develops Proposed §303(d) List.

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Proposed §303(d)
List for public comment.



(d) Listing Process

ogy will confer with the TRIBES at this point to resolve identified tribal/Ecology differences in y application or information interpretation.

The EPA will work with tribal governments and Ecology to address any policy information issues, which cannot be resolved at this point in the listing process.

Preparation and Submittal of the Candidate §303(d) List:

On April 1st of every even numbered year, Ecology will submit the **Candidate §303(d) List** and the **Summary of Responses** to EPA for appropriate administrative action within 30 days.

f on review the Candidate §303(d) List is approved by EPA, it is then the Final §303(d) List for Washington state for the biennial period.

rocess for the Year 2000 List and Subsequent Lists EPA Coordination

2000

Nov-Dec

Jan-Feb-March

April-May-June

July-Aug-Sept

Candidate §303(d) List

Final §303(d) List





logy evaluates all information submitted and all comments received; and then prepares Candidate §303(d) List.

Ecology prepares the Summary of Responses to all the information submitted and all the comments received; then sends the Summary of Responses to the TRIBES; and confers. with TRIBES. if needed. to resolve any differences.

Ecology submits
the Candidate
§303(d) List
and the Summary
of Responses to
EPA for review
on April 1;
and
EPA takes
appropriate
administrative action
to approve or
disapprove the
Candidate §303(d)
List within 30 days.

If approved by EPA, the Candidate §303(d) List becomes the Final §303(d) List.

Introduction

There is a growing history and tradition of intergovernmental cooperation among the tribes in Washington state, the Washington Department of Ecology (Ecology), and the U.S. Environmental Protection Agency (EPA). This cooperation has been based on the common concern of the tribes and the agencies for the protection and preservation of the very unique natural environment and resources in Washington state. As a result, tribes have sought to work closely, through their *Coordinated Tribal Water Quality Program*, with Ecology in the development and implementation of the agency's *Watershed Approach to Water Quality Management* and the development and implementation of total maximum daily load (TMDL) studies.

Another good example of this cooperation has been the Clean Water Act §303(d) Listing Process which has been managed by Ecology and EPA with tribal participation. The Clean Water Act includes a requirement that every other year each state must prepare and prioritize a listing of waters that are not meeting water quality standards. This is complicated because states do not have jurisdiction on tribal reservations, and the tribes in Washington state have water quality concerns off the reservations through certain retained rights under their treaties with the U.S. Government.

Section 303(d) Listing Timeline

The §303(d) Listing Timeline has been prepared to provide the tribal officials and technical staffs with a ready reference on the government to government opportunities for:

- \star the input of tribal information into the biennial §303(d) Listing Process; and
- ★ tribal conferral with Ecology and EPA officials to review and discuss policy and technical issues.

The §303(d) Listing Timeline is established by Ecology in *WQP Policy 1-11 and Procedures 1-12, Assessment of Water Quality for the Section 303(d) List* to fulfill the state's delegated obligations under the Clean Water Act and to meet the state's responsibilities under the Centennial Accord. Tribal participation is needed to ensure that Ecology's §303(d) Listing decisions support the preservation and protection of water quality in the tribes' usual and accustomed areas. Tribal participation is also needed for the §303(d) Listing of on-reservation surface waters, which lie outside the state's jurisdiction and may not be meeting water quality standards adopted by a tribe.



For further information on the §303(d) Program contact:
Northwest Indian Fisheries Commission at (360) 438-1180;
Washington Department of Ecology at (360) 407-6482;
U.S. Environmental Protection Agency at (206) 553-2724.